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## **Class action suits: Another perspective on this so-called tainted process**

BY STEVE TILLERY

Class action lawsuits are frequently criticized as providing little or no financial benefit for class members while greatly benefiting the lawyers who bring them. Reports of class action attorneys who receive millions in fees while their clients receive only nominal compensation have tainted the public's perception of class action lawsuits. In actuality, class actions serve an important function in the American judicial system and provide many benefits to the American public.

Class action lawsuits allow large numbers of plaintiffs who have been similarly injured by a single defendant to pursue a single action against that defendant. One of the primary benefits of this single action is that it conserves resources and reduces costs. Both the class of plaintiffs and the defendant are able to greatly decrease the amount of attorney fees and other costs associated with such actions. In addition, the limited resources of our courts are more efficiently allocated by the class action system. A single class action prevents the undesirable situation where multiple judges hear the same case and rule on the same issues. This also avoids the problem of inconsistent resolutions in different courts regarding essentially the same case.

The problem of individual recoveries that are too small to warrant the cost of bringing suit is also resolved by class actions. For example, if a corporation engages in illegal billing practices that overcharge each customer \$20, the individual customer simply cannot justify spending the money to hire an attorney to file suit to recover the \$20. The court filing fee alone would be much greater than the possible recovery, let alone the legal fees, and extensive litigation costs. However, when that same corporation has cheated hundreds of thousands of customers out of \$20, it is making huge amounts of money through illegal conduct. The class action allows this group of customers to combine their claims in one action. This allows the combined potential recovery to justify the cost of bringing suit.

There is also the notion of huge, undeserved legal fees for lawyers in class action suits. It is true that lawyers sometimes receive fees between 25 percent and 33 ⅓ percent of a suit that is pursued on a contingency fee basis. However, keep in mind that there is also the chance that the lawyers will lose and then receive no fee at all. Moreover, it is important to remember that contingency fee arrangements allow people with no money to hire topflight legal representation capable of going toe-to-toe with the richest defendants. Were this not the case, corporations would be free to ignore with impunity the property rights of those with no money. Because of the class action system, even the mightiest billion-dollar corporations will be held accountable for harming the weak and the poor. This unambiguous good makes society more just and safer in the long run.

On the question of whether lawyer fees are “deserved,” clearly they are! Handling class action cases is complicated work that requires experience. It also requires the class action law firm to spend a lot of money up front in costs. For that reason, only a large, well-funded law firm can successfully handle complex class action suits. Veteran lawyers with highly specialized skills are needed. They work hard, long hours, sometimes for years, without any assurance that they will ever receive a fee for that work. So, the winning cases not only have to pay them for their time for those cases, they also have to cover all of the money spent on losing cases or on cases that, despite winning, still do not cover the cost of the actual attorney time spent on the matter.

Misconceptions also arise about class actions because the media has only been given the corporate version and thus tends to focus on how much the attorneys receive as a whole, and it seems unfair. It will always seem unfair when you compare apples to oranges. If you make the comparison, it should be how much the class as a whole gets in comparison to how much the attorney gets, or how much each class member pays in legal fees. That is not only a more accurate comparison, but it also shows that the attorney award is fair. Attorney awards in class cases are comparable to, and more often less than, the attorney fees in other contingency fee cases. For example, if a law firm of 10 lawyers pursues a class action case for five years and recovers \$100 for each 1 million class members and receives a fee of \$10 million, that computes to a fee of 10 percent of the entire recovery. If the news accounts of the settlement compare the total fee to the \$100 received by each class member, the result seems outrageous. But if the story indicated that each class member paid \$10 in legal fees for 10 lawyers to work for five years and advance all court costs along the way with no guarantee of payment, the attorney fees seem reasonable.

Our forefathers understood and sought to preserve a political system with checks and balances. So, too, should all Americans understand and seek to preserve a class action system that checks the power and greed of corporations by affording the balance of a class action remedy to the powerless individual.

**STEVE TILLERY** is the Senior Partner in the law firm of Korein Tillery, which has offices in St. Louis and Chicago. Korein Tillery has been selected as one of the top ten plaintiff's law firms in the United States by the National Law Journal. Tillery is a lifelong resident of Illinois.